IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 7470 OF 2006

Mrs. Lalita Rodriques. ... Petitioner

versus

Franciscan Hospitaller Sisteers
of the Immaculate Conception
and others ..... Respondent.

Shri M.P.Vashi i/b. M.P.Vashi & Associates for the petitioner
Shri P.K.Rele Sr. advocate i/b. Piyush Shah for Respondent no.1.
Shri S.K.Chinchalikar AGP for Respondent no.4.

CORAM; A.P. DESHPANDE, J.
DATED; 7TH FEBRUARY, 2007

P.C.;

1. The petitioner was appointed as an Assistant teacher in the respondent no.2 School which is administered by the respondent no.1-trust. The petitioner was initially appointed by an order of appointment dated 31-3-2003 with effect from 11-6-2003 to 30-4-2004. The order categorically mentions the appointment to be purely temporary for the stipulated period. In the next academic session as well the petitioner was continued in service by issuing afresh appointment order dated 2-5-2004 and this order again provides that the appointment is purely temporary for the period commencing from 14-6-2004 to 30-4-2005. From 30-4-2005 the petitioner has been discontinued from service, as according to the respondent, the

appointment had come to an end by efflux of time. Aggrieved by the termination of service, the petitioner filed an appeal before the school tribunal and contended that though the appointment order states that the appointment is temporary, the same in fact is against permanent post and clear vacancy, and hence need to be construed as on probation.

2. The petitioner had also relied upon a certificate issued by the Principal, which goes to state that on completion of two years satisfactory service, the petitioner would be made permanent. Per contra, the respondent submits that the appointment made in the academic session 2003 was on account of occurrence of leave vacancy as one Delphine had gone on long leave. The management's explanation that the principal had issued the certificate to enable the petitioner to borrow the loan is well founded and needs to be accepted. Thus the certificate does not create any right in the petitioner. To substantiate that the vacancy that had come in to being in academic session 2003-2004 was leave vacancy, the muster rolls were also placed on record. In regard to the appointment made in 2004-05 it was pointed out that the said appointment was very much temporary being in leave vacancy as one Mr. Parbat who had undergone surgery and was unable to conduct physical education classes, which work was assigned to the petitioner. The

tribunal accepting the case put forth by the respondent, has dismissed the appeal filed by the petitioner and aggrieved thereby the present writ petition has been filed.

3. Perused the order passed by the tribunal. As the appointment orders clearly indicate the nature of appointment to be temporary only till end of academic session, the petitioner cannot claim the status of confirmed employee. The termination of the petitioner from service has taken place within the probation period, even otherwise. The appointment of the petitioner in both the academic sessions being temporary in nature and on account of reasons clearly assigned and established by the management, no fault can be found with the order of termination.

4. In the result, there is no merit in the petition and the same is rejected summarily.

...